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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals except of such cases as are reported in full.

DUDLEY v. LEWIS SHOE CO.

Jan. 18, 1912.

[73 S. E. 433.]

1. Landlord and Tenant (§ 169*)—Injuries to Tenant from Defects—Sufficiency of Declaration.—The declaration in an action by a tenant of a lower floor against the landlord for injuries to plaintiff's goods by water coming through the ceiling from pipes negligently permitted to freeze and burst, held, when construed with the bill of particulars, to sufficiently describe the pipes and allege the acts constituting defendant's negligence.

[Ed. Note.—For other cases, see Landlord and Tenant, Dec. Dig. § 169.* 9 Va.-W. Va. Enc. Dig. 159.]

2. Landlord and Tenant (§ 169*)—Injuries to Tenant—Actions—Instructions.—In a tenant's action against his landlord for injuries to a stock of goods by negligently permitting a water-closet pipe on the second floor to freeze and burst, an instruction that if it was defendant's duty to repair the pipes, and plaintiff had no control over them, then it was defendant's duty to use ordinary care in inspecting the pipes so as to prevent them from freezing, bursting, and overflowing, and if, under the lease of another tenant who used the water-closet which burst, it was defendant's duty to care for the pipes therein, she was bound to use ordinary care to prevent them from freezing, bursting, and discharging water on plaintiff's goods, and the fact that such other tenant called attention to needed repairs in the closet would not affect the responsibility which defendant owed to other tenants, was misleading where the evidence showed that the other tenant had exclusive control of the closet, and that defendant could not gain access thereto without obtaining the key from such tenant, and the only duty assumed by defendant in respect to plumbing was to unstop all waste pipes which became choked by the carelessness of those using them, and to repair all water pipes that burst from freezing because of failure to turn the water off.

[Ed. Note.—For other cases, see Landlord and Tenant, Dec. Dig. § 169.* 9 Va.-W. Va. Enc. Dig. 159.]

3. Trial (§ 260*)—Instructions—Requests—Charges Already Given.—Requested charges fully covered by charges given are properly refused.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 651-665; Dec. Dig. § 260.* 7 Va.-W. Va. Enc. Dig. 742.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

4. Trial (§ 250*)—Instructions—Requests—Abstract Instructions.—Instructions consisting of abstract propositions of law which were immaterial were properly refused.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 584-586; Dec. Dig. § 250.* 7 Va.-W. Va. Enc. Dig. 720.]

Error to Corporation Court of City of Danville.

Action by the Lewis Shoe Company against Lucy E. Dudley. Judgment for plaintiff, and defendant brings error. Reversed.

R. W. Peatross and Harris & Harris, for plaintiff in error.

Julian Meade, for defendant in error.

BETTMAN *v.* SKINNER.

Jan. 18, 1912.

[73 S. E. 436.]

1. Trial (§ 260*)—Instructions Covered by Others.—In an action for injuries by falling from a stepladder, the court instructed that it was the duty of defendant to provide plaintiff with a reasonably safe stepladder with which to perform his work. Held, that the omission of the qualification, that defendant's duty was "to use ordinary care" so to do, is not material where the omitted matter is fully covered by an instruction given by request of defendant.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 651-659; Dec. Dig. § 260.* 1 Va. W. Va. Enc. Dig. 605; 7 Va.-W. Va. Enc. Dig. 745.]

2. Appeal and Error (§ 263*)—Necessity of Exception—Instructions.—Omission in instruction cannot be urged on appeal where no exception was taken on such ground.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 1516-1532; Dec. Dig. § 263.* 1 Va.-W. Va. Enc. Dig. 563.]

3. Master and Servant (§ 293*)—Conflicting Instructions.—In an action for injuries to a servant by a fall from a defective stepladder, an instruction that it was the duty of defendant to provide plaintiff with a reasonably safe stepladder, and that plaintiff, in the absence of notice to the contrary, had the right to rely on the performance of that duty by the defendant. At the instance of defendant, the court instructed that the jury must believe that the stepladder was defective; that defendant knew or ought to have known of the defect; that plaintiff did not know of it or, by the exercise of ordinary care, could not have known of it, and that although the stepladder was furnished to plaintiff by defendant with knowledge that it was unsafe and by reason thereof, plaintiff sustained the injury complained of, yet they must find for defendant, if the defects were ob-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.